IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISCELLANEOUS APPLICATION(MAIN) NO.265 OF 2006

Godfrey Lawrence
s/o Francisco Lawrence,
r/o Flat No.F-3, Green
Valley, Volant, Porvorim,
Bardez-Goa. ... Applicant

versus

State
Through the Public Prosecutor,
Panaji, Goa. ... Respondent

Mr. N. Costa Frias, Advocate for the Applicant.

Mr. C. A. Ferreira, Public Prosecutor for the Respondent.

CORAM : N. A. BRITTO, J.

DATE : 12TH JULY, 2007.

ORAL JUDGMENT

By consent heard forthwith.

2. Heard Mr. N. Costa Frias, learned Counsel on behalf

of the applicant and Mr. C. A. Ferreira, learned Public Prosecutor on behalf of the respondent.

3. The applicant herein was an accused in C. C. No.33/S/2001/C which was filed against him by the State under Sections 447, 506(II) I.P.C. and Section 25 of the Arms Act, 1958. By Order dated 11-1-2002 of the learned J.M.F.C., the accused came to be discharged under all the aforesaid Sections of law. The State preferred a revision before the Court of Session at Panaji. The revision came to be disposed of by the learned Additional Sessions Judge by Order dated 25-1-2006. The main grievance of the applicant/accused is that he was not heard at the time of hearing of the said revision. From the impugned Order of the learned Additional Sessions Judge, it appears that the learned Additional Sessions Judge has maintained the finding as regards the discharge of the accused under Section 506(II) and Section 25 of the Arms Act, 1958 but has ordered that charge be framed against the accused under Section 447 I.P.C.

4. Admittedly, as can be seen from para 3 of the

impugned Judgment, the applicant/accused was not served as the summons issued to him were returned that the applicant/accused was not residing at the given address. It does not appear that the learned Additional Sessions Judge had exhausted the other provisions of the Code(Code of Criminal Procedure, 1973), before proceeding to decide the Criminal Revision Application in the absence of the said accused. Since the impugned Order has been passed without hearing the accused, it deserves to be set aside.

5. Consequently, the application is allowed. The impugned Order dated 25-1-2006 of the learned Additional Sessions Judge is hereby set aside. The learned Additional Sessions Judge is hereby directed to dispose of Criminal Revision Application No.13/2002 after hearing the applicant/accused. The accused is hereby directed to remain present before the learned Additional Sessions Judge, Panaji on 1-8-2006 at 10.00 a.m.

N. A. BRITTO, J.

RD